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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JUSTIN EDMISTON,

Plaintiff,

vs.

SUCIDO, et al.,

Defendants.

Case No. 3:21-cv-00245-MMD-CSD

**ORDER GRANTING MOTION TO
EXTEND THE DEADLINE TO FILE A
PROPOSED JOINT PRETRIAL
ORDER
[First Request]**

Defendants William Gittere, Ricardo Saucedo, and James Weiland, by and through undersigned counsel, Sheryl Serreze, Deputy Attorney General, hereby move for an order to extend the date for the filing of a Proposed Joint Pretrial Order for forty-five (45) days, from January 3, 2023 to February 17, 2023. This is the Defendants' first request for such an extension.

I. NATURE OF THE CASE.

This is a *pro se* prisoner civil rights action asserting claims arising under 42 U.S.C. § 1983. ECF No. 7 at 1:11-13. The District Court, in its screening order, dismissed Edmiston's claim under the Torture Victim Protection Act of 1991, but allowed Edmiston to proceed with the following three claims: (1) his Eighth Amendment excessive force claim against defendant Ricardo Saucedo ("Saucedo") (incorrectly identified as Sucido); (2) an Eighth Amendment excessive force claim against defendant James Weiland ("Weiland"); and (3) his

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1 supervisory liability for Eighth Amendment excessive force by a subordinate claim against
2 defendant William Gittere (“Gittere”). ECF No. 7 at 4-7.

3 On January 24, 2022, the parties participated in an Early Mediation Conference, but
4 a settlement was not reached. ECF No. 14. On April 25, 2022, Edmiston filed a Motion for
5 Summary Judgment or Partial Summary Judgment (ECF No. 28) in which he asked this
6 Court to grant partial summary judgment in his favor against defendant Saucedo in the
7 amount of \$3,700,000.00. ECF No. 28 at pg. 5. On August 30, 2022, Magistrate Judge Craig
8 S. Denney issued a Report and Recommendation (“R&R”) recommending that
9 Edmiston’s Motion be denied. ECF No. 53. After Edmiston objected to the R&R (ECF No.
10 55), the District Court overruled the objection and adopted Judge Denney’s Report. ECF No.
11 74 at 12:15-16. Thus, the District Court denied Edmiston’s Motion for Summary Judgment.
12 ECF No. 74 at 12:24-25.

13 Edmiston then filed a Demand for Judgment, to which Defendants responded. ECF
14 Nos. 73, 84. On November 17, 2022, the District Court denied the Motion/Demand for
15 Judgment because “Edmiston provides no explanation or legal arguments to support his
16 request.” ECF No. 87.

17 On December 1, 2022, the parties participated in a Settlement before Magistrate
18 Judge Craig S. Denney, but a settlement was not reached. The proposed Joint Pretrial
19 Order was ordered to be filed by January 3, 2023.

20 Undersigned counsel promptly scheduled a telephonic conference with Plaintiff
21 Edmiston for Friday, December 23, 2022 at 10:30 a.m. to discuss the proposed Joint Pretrial
22 Order due by January 3, 2023. Mr. Edmiston did not attend that scheduled telephonic
23 conference.

24 **II. GOOD CAUSE FOR EXTENSION OF DEADLINE.**

25 Filed herewith (in camera and under seal) is a declaration executed by Warden
26 David Drummond and submitted in another U.S. District Court case in connection with
27 an Early Mediation Conference, scheduled for December 27, 2022. That declaration
28 explains the reasons why Plaintiff Edmiston missed his Friday, December 23, 2022 at

1 10:30 a.m. telephonic conference on this case and further explains that Plaintiff
2 Edmiston will be unavailable through at least December 29, 2022 for medical reasons.

3 **III. CONCLUSION.**

4 Defendants will be unable to draft the Proposed Joint Pretrial Order without
5 input from Plaintiff Edmiston and submit that his unavailability constitutes good cause
6 for the requested extension under LR IA 6-1.

7 Therefore, Defendants request the Court extend the date for the filing of a
8 Proposed Joint Pretrial Order for forty-five (45) days, from January 3, 2023 to February
9 17, 2023. This is the first request for such an extension.

10 DATED this 27th of December 2022.

11 AARON D. FORD
12 Attorney General

13 By:


14 SHERYL SERREZE, Bar No. 12864
Deputy Attorney General

15 *Attorneys for Defendants William Gittere,*
16 *Ricardo Saucedo, and James Weiland*

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18 IT IS SO ORDERED:

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20 
21 UNITED STATES MAGISTRATE JUDGE

22 DATED: December 29, 2022
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